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October 1, 2010

VIA ECF and HAND DELIVERY

Honorable Faith S. Hochberg, U.S.D.J.
United States District Court, District of New Jersey
Frank R. Lautenberg U.S.P.O. Cthse. Bldg., Rm. 6000
P.O. Box 999
Newark, New Jersey 07101

Re: Waste Management of New Jersey, Inc. v.
Teamsters-Employers Local 945 Pension Fund, et al.
Civil Case No. 10-cv-3984 (FSH) (PS)

Dear Judge Hochberg:

This firm, together with Schulte, Roth & Zabel, LLP, represent Defendants, Teamsters-Employers Local 945 Pension Fund (the "Fund") and its Trustees (the "Trustees") in the above referenced action. Pursuant to Your Honor's September 27, 2010 order, we write to request a hearing on plaintiff Waste Management of New Jersey, Inc.'s ("Waste Management") application for a preliminary injunction.

Defendants respectfully request a hearing before the Court to address Defendants' arguments that:

- (i) Waste Management is bound by all amendments to the Trust Agreement, including those adopted in 2009, because it agreed to be bound by the Fund's Trust Agreement, "as amended," and to hold otherwise permits Waste Management to avoid its obligation under the Trust Agreement by simply breaching its obligation to submit remittance reports.
- (ii) Even if Waste Management were not bound under the remittance reports it submitted, Waste Management is bound by the Fund's rules and regulations that are essential to the Trustees' management of the Fund, including arbitration of delinquent contribution disputes.

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- (iii) Even if Waste Management is not bound by the resolution adopted in 2009 by submitting remittance reports or by participating in the Fund, Waste Management agreed to arbitrate delinquent contribution disputes by explicitly agreeing to resolutions adopted prior to December 2008.

Therefore, Waste Management does not suffer irreparable harm *per se* and should be required to arbitrate before Arbitrator Leibowitz, who replaced the arbitrator named in the earlier resolution. If the Court holds that Waste Management is not bound by the resolution adopted in 2009 and cannot be required to arbitrate its delinquent contributions dispute before Arbitrator Leibowitz, Defendants respectfully request the Court hold that Waste Management is obligated to proceed to arbitration on its delinquent contributions dispute with the Fund before Arbitrator Wellington Davis pursuant to resolutions adopted by the Trustees prior to December 2008.

Thank you for your attention to and consideration of this matter.

Respectfully submitted,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO

JOHN M. AGNELLO

JMA

cc: Susan Katz Hoffman, Esq. (via ECF and email)
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